

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MISSOURI**

<b>IN RE:</b>	)	
	)	
<b>FRED GRAHAM VAN NOY</b>	)	<b>Case No. 18-40629-drd13</b>
	)	
<b>Debtor</b>	)	
	)	
<b>FRED GRAHAM VAN NOY</b>	)	
	)	
<b>Plaintiff</b>	)	
	)	
<b>Vs.</b>	)	<b>Adversary Case No.</b>
	)	
<b>TRINITY FINANCIAL SERVICES, LLC)</b>	)	
	)	
<b>Defendant</b>	)	

**COMPLAINT TO AVOID LIEN OF TRINITY FINANCIAL SERVICES, LLC**

Comes now the plaintiff debtor, Fred Graham Van Noy, by his undersigned counsel, and for his Complaint to Avoid Lien of Trinity Financial Services, LLC, states as follows:

1. Plaintiff filed his voluntary petition herein under Chapter 13 of the Bankruptcy Code on March 9, 2018.
2. This adversary proceeding arises out of plaintiff's Chapter 13 case and this court has jurisdiction over this adversary proceeding pursuant to 28 USC Sections 151, 157 and 1334.
3. This is a core proceeding under 28 USC Section 157 (b)(2)(K) which is both statutorily and constitutionally core.
4. The proceedings in this case are governed by Federal Rules of Bankruptcy Procedure 7001(2) and (9).
5. Venue is proper in this court pursuant to 28 USC Sections 1408 and 1409.

6. Defendant purports to hold a security interest in plaintiff's real estate located at 19309 East 5<sup>th</sup> Terrace Court North, Independence, Missouri 64056 and legally described as follows:

LOT 1579, FAR VIEW HEIGHTS, A SUBDIVISION IN INDEPENDENCE,  
JACKSON COUNTY, MISSOURI

7. Plaintiff debtor listed the indebtedness to Trinity Financial Services, LLC on Schedule

D. Trinity Financial Services, LLC has filed a proof of claim in the amount of \$18,735.82, alleging that said claim is secured by a deed of trust on said real estate.

Trinity Financial Services, LLC is a successor in interest to the original holder of said indebtedness, Michigan Fidelity Acceptance Corporation.

8. Trinity Financial Services, LLC holds a second deed of trust on said real estate and the first deed of trust on said real estate is currently held by LNV Corporation, which has filed a proof of secured claim in the amount of \$74,288.22.

9. Plaintiff debtor has valued the aforesaid real estate on his Schedule A filed herein in the amount of \$50,000.

10. The indebtedness owed to LNV Corporation exceeds the value of the real estate by \$24,288.22

11. The claim of Trinity Financial Services, LLC is unsecured as there is not sufficient equity in plaintiff's aforesaid real estate to secure any part of the alleged security interest held by defendant Trinity Financial Services, LLC.

12. Therefore, the claim of defendant Trinity Financial Services, LLC allegedly secured by a second deed of trust on said real estate is not a valid secured claim pursuant to 11

USC Section 506(a) and the alleged security interest in plaintiff's aforesaid real estate is void.

WHEREFORE, plaintiff prays that the Court declare that the alleged security interest of Trinity Financial Services, LLC as a second deed of trust is void; allow said claim as a general unsecured claim; require that Trinity Financial Services, LLC release the second deed of trust upon the subject real estate upon plaintiff debtor's completion of his Chapter 13 plan; and for such other and further relief as the Court deems meet and just in the premises.

Respectfully Submitted,

/s/ R. Gregory Gore

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